

with what Delegates Burgess and MacDonald have said, namely, that the definition of damages is unknown, and that this will cost the State conservatively hundreds of thousands of dollars, if not millions.

I may add that the legislature has had and will continue to have the power to extend what a person shall receive when his land is taken for public use. It has in fact extended, in the last five to ten years, the damages that a person could receive, and I think the proper place for consideration of this, especially when we are not in a position to know how much it will cost, is in the state legislature and not in the state constitution and therefore I shall vote and urge you to vote in favor of this amendment.

THE CHAIRMAN: Does any other delegate desire to speak in opposition?

Delegate Dukes.

DELEGATE DUKES: Unlike some of the delegates who have spoken, I am not in a position to know exactly how much it might cost the State of Maryland.

The only way to measure that is to know how much injury the State of Maryland is doing which it does not pay for. I, like most taxpayers, am very disinclined to have the State go out and spend money for things I do not need for myself. But I am ready to pay my fair share where a particular person has been injured and where he has been injured by the State.

It may cost a thousand, a hundred thousand, or a million dollars, but if the State of Maryland is harming people's property — harming it, or taking it, or building a dam and flooding it, or doing any one of a number of things it can do, so that a man who owns a home no longer has a decent place to live because they fly airplanes over his house — if those things happen and the State of Maryland causes them to happen in the general betterment of the overall welfare of you and me, we should be willing to pay our share.

The particular person who is injured should not have to pay himself. If it costs a lot of money it is because the State is doing a lot of injury. If the State is doing a lot of injury, the State ought to pay for it.

THE CHAIRMAN: Is there any further discussion?

*(There was no response.)*

Are you ready for the question?

*(Call for the question.)*

Delegate Byrnes.

DELEGATE BYRNES: Mr. Chairman, I would like to direct a question to Delegate Burgess.

THE CHAIRMAN: Delegate Hardwicke, do you desire to debate?

DELEGATE HARDWICKE: I would like to speak in favor of the amendment, if I may.

THE CHAIRMAN: You may speak.

DELEGATE HARDWICKE: I hesitate to go against the wishes of the majority of the Committee. I would like to point out to this group, however, that representatives of the City of Baltimore appeared before the Committee and they were adamantly opposed to the inclusion of the concept of damages into our eminent domain constitutional provisions. Joe Buscher, who is in charge of this kind of work for the State Roads Commission, expressed a certain amount of horror at the inclusion of this concept into the eminent domain concept.

Let me say that I do not know whether any testimony was taken as to the extent or the cost to the State of Maryland. I did not hear any and I can assure you that you do not know what you are opening the door to.

We have always been, in this State, a very strong "taking" state. Our Court of Appeals has limited, time and time again, the amount of compensation to just the taking concept and has never permitted the courts to get into the damage area.

This would permit monetary payments where there was no taking, but merely damages. And those of you who believe this will help the little man, my experience in the practice of law is that by and large it is the large corporation, the large landholder who comes in for his biggest share of the take in these cases. I seriously doubt this is going to help the small man.

I think it will help the property holder. I think it gets into an area that we have no earthly concept of the extent of. I think the legislature can take care of this without our doing anything. I think they are better prepared to limit it by statute than we are prepared to go into it in our constitution.

THE CHAIRMAN: Delegate Rybczynski, do you desire to debate the amendment?

DELEGATE RYBCZYNSKI: Yes, sir.